

Notice of Allowability

Application No.

09/965,675

Examiner

Mark Ruthkosky

Applicant(s)

DRISTY ET AL.

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/27/2004.
2. ☒ The allowed claim(s) is/are 2-11 and 43-70.
3. ☒ The drawings filed on 22 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Response to Amendment

The proposed reply filed on 9/13/2004 has been entered. Claims 1 and 12-42 have been canceled. Claims 2-11 and 43-70 are pending.

Claim Rejections - 35 USC § 102

The rejection of claims 1 and 5-12 under 35 U.S.C. 102(e) as being anticipated by Shiepe et al. (WO 00/39362) has been overcome by the applicant's amendment.

The rejection of claims 1, 2 and 5-12 under 35 U.S.C. 102(b) as being anticipated by Leonida et al. (US 5,324,565) has been overcome by the applicant's amendment.

Allowable Subject Matter

Claims 2-11 and 43-70 are allowed.

The following is an examiner's statement of reasons for allowance:

The instant claims are to an electrochemical cell comprising a first electrode, a second electrode, a membrane disposed between the first and second electrodes and a pressure pad disposed in electrical communication with the first electrode and being configured to support the first electrode, second electrode and the membrane. The pressure pad includes an electrically conductive member and a compression member disposed at the electrically conductive member. In claim 3, the electrically conductive member and the compression member are spirally arranged in the pressure pad. In claim 4, the electrically conductive member comprises a plate;

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the plate includes a plurality of raised portions concentrically disposed thereon and receives compression members there between. The prior art does not teach an electrochemical cell, as claimed, with either the electrically conductive member and the compression member spirally arranged, or the electrically conductive member comprises a plate, the plate includes a plurality of raised portions concentrically disposed thereon and receive compression members there between. As the prior art does not teach a compression pad with these configurations, the claims are allowable over the prior art.

The most pertinent prior art has been cited. Shiepe et al. (WO 00/39362) teaches an electrochemical cell comprising a first electrode, a second electrode, a membrane disposed between the first and second electrodes and a pressure pad disposed in electrical communication with the first electrode and being configured to support the first electrode, second electrode and the membrane. The pressure pad includes an electrically conductive member and a compression member disposed at the electrically conductive member. The porous pad is compressible. The same materials are noted in each invention. Shiepe et al. (WO 00/39362) does not teach an electrochemical cell, as claimed, with the electrically conductive member and the compression member spirally arranged, or wherein the electrically conductive member comprises a plate including a plurality of raised portions concentrically disposed thereon which receive compression members there between.

Leonida et al. (US 5,324,565) teaches an electrochemical cell comprising a first electrode, a second electrode, a membrane disposed between the first and second electrodes and a pressure pad. The pressure pad disposed in electrical communication with the electrodes and is configured to support the first electrode, second electrode and the membrane. The pressure pad

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includes an electrically conductive member and a compression member disposed at the electrically conductive member see claims 1-14, the figures; col. 3, lines 5-65; col. 4, line 5-end; col. 6, lines 40-end; col. 7, lines 1-60.) The porous pad is compressible. A second layer of copper, nickel or an alloy thereof is disposed adjacent to the material forming a pad. The same materials are noted in each invention. Leonida et al. (US 5,324,565) does not teach an electrochemical cell, as claimed, with the electrically conductive member and the compression member spirally arranged, or wherein the electrically conductive member comprises a plate including a plurality of raised portions concentrically disposed thereon which receive compression members there between. As the prior art does not teach an electrochemical cell comprising a first electrode, a second electrode, a membrane disposed between the first and second electrodes and a compression pad with the claimed configurations, the claims are allowed over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Examiner Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Ruthkosky whose telephone number is 571-272-1291. The examiner can normally be reached on FLEX schedule (generally, Monday-Thursday from 9:00-6:30.) If attempts to reach the examiner by telephone are unsuccessful, the examiner's

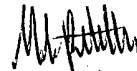
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supervisor, Patrick Ryan can be reached at 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free.)

Mark Ruthkosky
Primary Patent Examiner
Art Unit 1745


11/17/04